House Bill 1021

By: Representatives Oliver of the 83rd, Ashe of the 56th, Kidd of the 115th, Gardner of the 57th, and Benfield of the 85th

A BILL TO BE ENTITLED

AN ACT

- 1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
- 2 juvenile proceedings, so as to provide for treatment of children who are victims of
- 3 commercial sexual exploitation; to provide for definitions; to change a definition; to change
- 4 provisions relating to when a child may be taken into custody; to change provisions relating
- 5 to when detention of a child is permitted; to change certain provisions relating to an
- 6 allegation of deprivation; to change certain provisions relating to disposition of a deprived
- 7 child; to amend Code Section 16-6-9 of the Official Code of Georgia Annotated, relating to
- 8 prostitution, so as to add a minimum age for committing the offense of prostitution; to
- 9 provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

- 12 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
- proceedings, is amended by striking paragraph (8) of Code Section 15-11-2, relating to
- definitions, and inserting in lieu thereof a new paragraph (8) and by adding a new paragraph
- 15 (2.5) to read as follows:
- 16 "(2.5) 'Commercial sexual exploitation' means the employment, use, persuasion,
- inducement, enticement, or coercion to engage in or assist any other person in the
- engagement of any sexually explicit conduct for money or other items of value."
- "(8) 'Deprived child' means a child who:
- 20 (A) Is without proper parental care or control, subsistence, education as required by
- law, or other care or control necessary for the child's physical, mental, or emotional
- health or morals;
- (B) Has been placed for care or adoption in violation of law;
- (C) Has been abandoned by his or her parents or other legal custodian; or
- (D) Is without a parent, guardian, or custodian; or

1 (E) Is a victim of commercial sexual exploitation.

2 No child who in good faith is being treated solely by spiritual means through prayer in

- 3 accordance with the tenets and practices of a recognized church or religious denomination
- by a duly accredited practitioner thereof shall, for that reason alone, be considered to be
- 5 a 'deprived child.'"

6 SECTION 2.

- 7 Said chapter is further amended by striking subsection (a) of Code Section 15-11-45, relating
- 8 to when a child may be taken into custody, and inserting in lieu thereof the following:
- 9 "(a) A child may be taken into custody:
- 10 (1) Pursuant to an order of the court under this article, including an order to an employee
- of the Department of Juvenile Justice designated in accordance with paragraph (2) of
- subsection (i) of Code Section 49-4A-8 or to an employee of the Department of
- 13 Corrections, to apprehend a child who has escaped from an institution or facility operated
- either by the Department of Juvenile Justice or the Department of Corrections or a child
- who has been placed under supervision and who has broken the conditions thereof;
- 16 (2) Pursuant to the laws of arrest;
- 17 (3) By a law enforcement officer or duly authorized officer of the court if there are
- reasonable grounds to believe that the child has committed a delinquent act or if there are
- reasonable grounds to believe that he or she is an unruly child;
- 20 (4) By a law enforcement officer or duly authorized officer of the court if there are
- 21 reasonable grounds to believe that the child is suffering from illness or injury or is in
- immediate danger from his or her surroundings and that his or her removal is necessary;
- 23 (5) By a law enforcement officer or duly authorized officer of the court if there are
- reasonable grounds to believe that the child has run away from his or her parents,
- 25 guardian, or other custodian;
- 26 (6) By a law enforcement officer or duly authorized officer of the court if a parent or
- guardian of a child has contacted a law enforcement agency and reported that the child
- is absent from parental custody without consent and a facility created pursuant to
- paragraph (2) of subsection (e) of Code Section 15-11-47 is available; or
- 30 (7) By a law enforcement officer or duly authorized officer of the court if a child is
- violating a curfew and a facility created pursuant to paragraph (2) of subsection (e) of
- Code Section 15-11-47 is available; or
- 33 (8) By a law enforcement officer or duly authorized officer of the court if a child is in
- 34 need of protective services as a result of being a victim of commercial sexual
- 35 <u>exploitation</u>."

SECTION 3.

2 Said chapter is further amended by striking Code Section 15-11-46, relating to when

- 3 detention of a child is permitted, and inserting in lieu thereof the following:
- 4 "15-11-46.
- 5 A child taken into custody shall not be detained or placed in shelter care prior to the
- 6 hearing on the petition unless:
- 7 (1) The child's detention or care is required to protect the person or property of others
- 8 or of the child;
- 9 (2) The child may abscond or be removed from the jurisdiction of the court;
- 10 (3) The child has no parent, guardian, or custodian or other person able to provide
- supervision and care for him or her and return him or her to the court when required; or
- 12 (4) An order for the child's detention or shelter care has been made by the court pursuant
- to this article; or
- 14 (5) The child is a victim of commercial sexual exploitation."

15 SECTION 4.

- 16 Said chapter is further amended by striking subsection (f) of Code Section 15-11-48, relating
- 17 to place of detention of a child, and inserting in lieu thereof the following:
- 18 "(f) Allegation of deprivation.
- 19 (1) Except as provided in paragraph (2) of this subsection, a A child alleged to be
- deprived may be placed in shelter care only in the facilities stated in paragraphs (1) and
- 21 (2) of subsection (a) of this Code section or in a shelter care facility operated by the court.
- 22 (2) A child alleged to be deprived pursuant to subparagraph (E) of paragraph (8) of Code
- 23 Section 15-11-2 shall remain in placement until a final order of disposition has been
- 24 entered by the court in response to a petition alleging deprivation, in accordance with
- 25 <u>Code Section 15-11-55.</u>
- 26 (3) The actual physical placement of a child pursuant to this subsection shall require the
- approval of the judge of the juvenile court or his or her designee."

28 SECTION 5.

- 29 Said chapter is further amended by adding a new subsection (a.1) to Code Section 15-11-55,
- relating to disposition of a deprived child, to read as follows:
- 31 "(a.1) If the child is found to be deprived pursuant to subparagraph (E) of paragraph (8)
- of Code Section 15-11-2, the court may transfer temporary legal custody to a public or
- private agency or other private organization if licensed or otherwise entitled by law to
- receive and provide care for the child. If the court orders transfer of temporary legal

1 custody to an agency or organization, such agency or organization shall place the child

within a facility capable of providing services as defined by Code Section 15-11-57."

3 SECTION 6.

- 4 Code Section 16-6-9 of the Official Code of Georgia Annotated, relating to prostitution, is
- 5 amended by striking such Code section and inserting in lieu thereof the following:
- 6 "16-6-9.
- A person who is 17 years of age or older commits the offense of prostitution when he or
- 8 she performs or offers or consents to perform a sexual act, including but not limited to
- 9 sexual intercourse or sodomy, for money or other items of value."

SECTION 7.

11 All laws and parts of laws in conflict with this Act are repealed.